



**OFFICIAL**

**CARDINAL LAW GROUP**

1603 Orrington Avenue/Suite 2000  
Evanston, Illinois 60201  
Telephone 847 - 905 - 7111  
Facsimile 847 - 905 - 7113

Date: FEBRUARY 25, 2005

To: EXAMINER NGUYEN, DUC MINH  
U.S. PATENT AND TRADEMARK OFFICE

Fax #: (703) 872-9315

From: FRANK C. NICHOLAS  
Phone #: (847) 424-2521

Client/Matter No.: T00349 (7780/18)

# of Pages: 14

(including cover sheet)

IF YOU HAVE ANY PROBLEMS RECEIVING THIS MESSAGE, PLEASE CALL 847/905-7111, Ext. 112 AND ASK FOR JENNIFER CRUZ

THIS MESSAGE IS INTENDED ONLY FOR THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IT MAY CONTAIN PRIVILEGED, CONFIDENTIAL, ATTORNEY WORK PRODUCT, OR TRADE SECRET INFORMATION WHICH IS EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAWS. IF YOU ARE NOT THE INTENDED RECIPIENT, OR AN EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE (AND ALL COPIES) TO US BY MAIL AT THE ABOVE ADDRESS. WE WILL REIMBURSE YOU FOR POSTAGE.

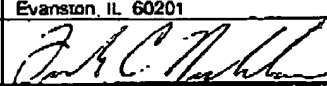
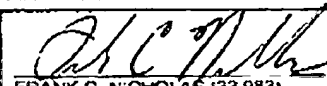
PTO-4001 (12/97), Approved for use through 10/01/01. Dep. Off. 4001: Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE  
Under the Paper Reduction Act of 1996, no postage is required to respond to a communication or presentation unless a postage or e-mail label number is indicated.

<b>TRANSMITTAL FORM</b>  <i>(to be used for all correspondence after initial filing)</i>	Attorney Docket No.	7780/18 (T00349)
	Application Number	10/040,288
	Filing Date	OCTOBER 25, 2001
	First Named Inventor	ROBERT J. MENENDEZ
	Group Art Unit	2843
	Examiner	NGUYEN, DUC MINH

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Amendment <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Status Letter  <input type="checkbox"/> Extension of Time Request (duplic) <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Supplemental Information Disclosure Statement, PTO-1449, att <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application	<input type="checkbox"/> Assignment Papers  <input type="checkbox"/> Drawings  <input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Petition Routing Slip (PTO/SB-68) and Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Small Entity Statement  <input type="checkbox"/> Request of Refund	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input checked="" type="checkbox"/> Appeal Brief  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Post Card Receipt <input type="checkbox"/> Additional Enclosure(s) (please identify below) <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 50-1713 (Cardinal Law Group). A duplicate copy of this sheet is enclosed. <input checked="" type="checkbox"/> I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 50-1713 (Cardinal Law Group). A duplicate copy of this sheet is enclosed.

## CALCULATION OF FEE

				Small Entity		Large Entity			
	Claims After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus		0	x \$25=	0		x \$50=	
Indep.		Minus		0	x \$100=	0		x \$200=	
First Presentation of Multiple Dep. Claim					+ \$180=	—		+ \$360=	
					total add'l fee	\$ 0		total add'l fee	\$ 0

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or individual name	FRANK C. NICHOLAS Registration No. 33,983 CARDINAL LAW GROUP 1603 Orrington Avenue, Suite 2000 Evanston, IL 60201		
Signature		Date	February 25, 2005
CERTIFICATE OF FACSIMILE			
I hereby certify that this correspondence is being transmitted via facsimile to (703) 872-9315 To the United States Patent and Trademark Office on this date:			
		February 25, 2005	
Signature		Date	February 25, 2005
FRANK C. NICHOLAS (33,983)			

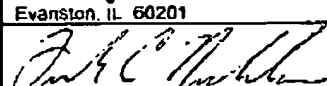
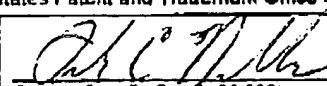
PTO Form 1 (12/01) Approved for use through 2000. Onp. Oct 14, 2001. Printed and Transmitted Once. U.S. DEPARTMENT OF COMMERCE  
Under the Paper Reduction Act of 1992, no persons are required to comply with a provision of this form unless it is specifically indicated that a particular provision applies to them.

<b>TRANSMITTAL FORM</b>  <i>(to be used for all correspondence after initial filing)</i>	Attorney Docket No.	7780/18 (T00349)
	Application Number	10/040,268
	Filing Date	OCTOBER 25, 2001
	First Named Inventor	ROBERT J. MENENDEZ
	Group Art Unit	2643
	Examiner	NGUYEN, DUC MINH

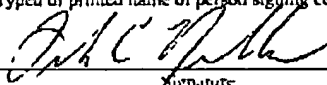
ENCLOSURES (check all that apply)		
<input type="checkbox"/> Amendment <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Status Letter  <input type="checkbox"/> Extension of Time Request (duplic) <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Supplemental Information Disclosure Statement, PTO-1449, att <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ incomplete Application	<input type="checkbox"/> Assignment Papers <input type="checkbox"/> Drawings  <input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request of Refund	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input checked="" type="checkbox"/> Appeal Brief  <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Post Card Receipt <input type="checkbox"/> Additional Enclosure(s) (please identify below). <div style="border: 1px solid black; height: 20px; width: 100%;"></div> <div style="border: 1px solid black; height: 20px; width: 100%;"></div> <div style="border: 1px solid black; height: 20px; width: 100%;"></div>
<input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. <u>50-1713</u> (Cardinal Law Group). A duplicate copy of this sheet is enclosed.		
<input checked="" type="checkbox"/> I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. <u>50-1713</u> (Cardinal Law Group). A duplicate copy of this sheet is enclosed.		

## CALCULATION OF FEE

				Small Entity		or	Large Entity	
	Claims After Amendment		Highest No Previously Paid For	Present Extra	Rate	Add'l Fee	Rate	Add'l Fee
Total		Minus		0	x \$25=	0	x \$50=	
Indep.		Minus		0	x \$100=	0	x \$200=	
First Presentation of Multiple Dep. Claim					+ \$180=	--	+ \$360=	
					total add'l fee		total add'l fee	
					\$ 0		\$ 0	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual name	FRANK C. NICHOLAS Registration No. 33,983 CARDINAL LAW GROUP 1603 Orrington Avenue, Suite 2000 Evanston, IL 60201		
Signature		Date	February 25, 2005
CERTIFICATE OF FACSIMILE			
I hereby certify that this correspondence is being transmitted via facsimile to (703) 872-9315 To the United States Patent and Trademark Office on this date <span style="float: right;">February 25, 2005</span>			
Signature	 FRANK C. NICHOLAS (33,983)	Date	February 25, 2005

Certificate of Facsimile  
I hereby certify that this correspondence is being transmitted  
by facsimile to (703) 872-9315 to the United States Patent  
and Trademark Office on February 25, 2005  
Date of Transmission

FRANK C. NICHOLAS (33983)  
(Typed or printed name of person signing certificate)  
  
Signature  
February 25, 2005  
Date

**PATENT-APPEAL**  
**Case No. 7780/18 (T00349)**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application of:	)	
	)	
ROBERT J. MENENDEZ	)	Examiner: NGUYEN, DUC MINH
	)	
Serial No.: 10/040,288	)	
	)	
Filed: OCTOBER 25, 2001	)	Group Art Unit: 2643
	)	
Title: SYSTEM FOR MONITORING	)	
A SERVICE VEHICLE	)	

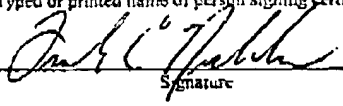
**APPEAL BRIEF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22202-1450

Sir:

This is an appeal from the final rejection of claims 1-31 in the Office Action mailed  
December 6, 2004.

Certificate of Facsimile  
I hereby certify that this correspondence is being transmitted  
by facsimile to (703) 872-9315 to the United States Patent  
and Trademark Office on February 25, 2005  
Date of Transmission

FRANK C. NICHOLAS (33,983)  
(Typed or printed name of person signing certificate)  
  
Signature  
February 25, 2005  
Date

**PATENT-APPEAL**  
**Case No. 7780/18 (T00349)**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application of:	)	
	)	
ROBERT J. MENENDEZ	)	Examiner: NGUYEN, DUC MINH
	)	
Serial No.: 10/040,288	)	
	)	Group Art Unit: 2643
Filed: OCTOBER 25, 2001	)	
	)	
Title: SYSTEM FOR MONITORING	)	
A SERVICE VEHICLE	)	

**APPEAL BRIEF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22202-1450

Sir:

This is an appeal from the final rejection of claims 1-31 in the Office Action mailed  
December 6, 2004.

February 25, 2005  
Case No.: 7780/18 (T00349)  
Serial No.: 10/040,288  
Filed: October 25, 2001  
Page 2 of 12

## TABLE OF CONTENTS

1.	Real Party In Interest . . . . .	3
2.	Related Appeals And Interferences . . . . .	3
3.	Status Of Claims . . . . .	3
4.	Status Of Amendments . . . . .	3
5.	Summary Of Claimed Subject Matter. . . . .	4
6.	Grounds Of Rejection To Be Reviewed On Appeal . . . . .	5
7.	Grouping Of Claims. . . . .	5
8.	Argument . . . . .	6
9.	Summary . . . . .	7
	Claims Appendix . . . . .	8
	Evidence Appendix . . . . .	12
	Related Proceedings Appendix . . . . .	12

February 25, 2005  
Case No.: 7780/18 (T00349)  
Serial No.: 10/040,288  
Filed: October 25, 2001  
Page 3 of 12

**REAL PARTY IN INTEREST**

The real party in interest is SBC Knowledge Ventures.

**RELATED APPEALS AND INTERFERENCES**

No other appeals or interferences are known which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

**STATUS OF CLAIMS**

This application was filed October 25, 2001 with claims 1-31 (reproduced in the Claims Appendix). The claims were not amended, and are the subject of the present appeal.

**STATUS OF AMENDMENTS**

There are no unentered amendments.

February 25, 2005  
 Case No.: 7780/18 (T00349)  
 Serial No.: 10/040,288  
 Filed: October 25, 2001  
 Page 4 of 12

### SUMMARY OF CLAIMED SUBJECT MATTER

The invention is a service vehicle 12 for making service calls at a plurality of locations. The service vehicle comprises a position determination device 14, one or more subsystem indicators 16, 18 indicating a condition of a subsystem of the service vehicle, an associated mobile communications device 20, and a hub 24 in permanent communication with a central computer. The hub communicates with the position determination device, the subsystem indicator, and the mobile communication device:

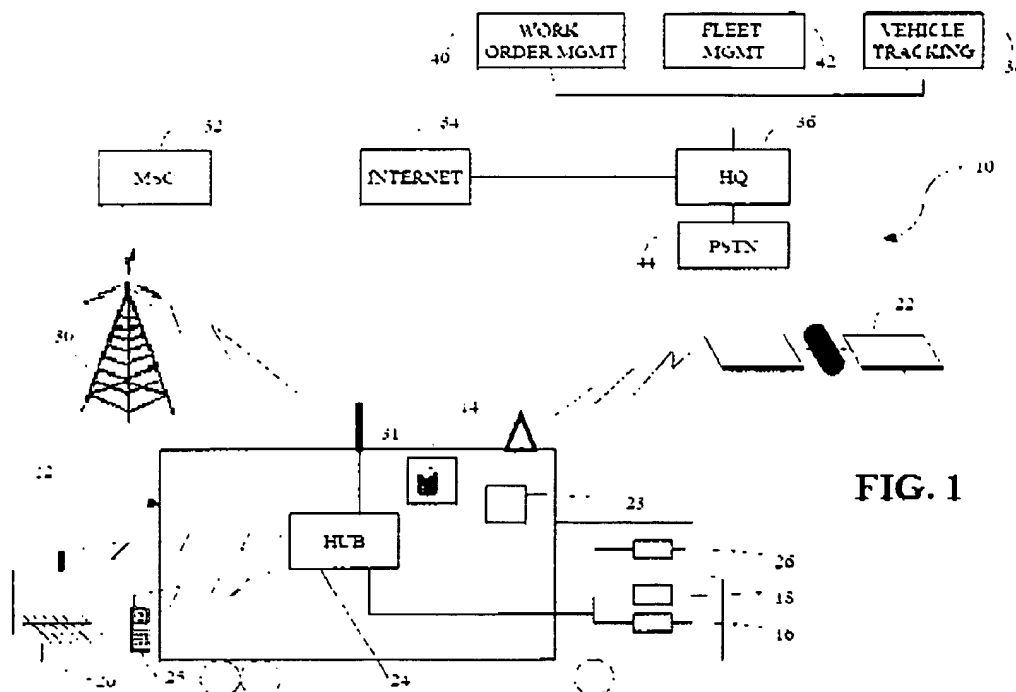


FIG. 1

February 25, 2005  
Case No.: 7780/18 (T00349)  
Serial No.: 10/040,288  
Filed: October 25, 2001  
Page 5 of 12

**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

All of the claims were finally rejected, in whole or in part, over U.S. Patent No. 6,703,946 to Flick. Flick '946 was filed after the present application as a continuation-in-part of an application filed on May 17, 2001, which in turn is apparently related to a series of earlier provisional applications. The Examiner maintains that these provisional applications provide a date under which Flick '946 qualifies as prior art under 35 U.S.C. §102(e).

The question in this appeal is whether an issued U.S. patent qualifies as prior art under §102(e) as of the date of an earlier provisional application to which it claims priority.

**GROUPING OF CLAIMS**

Claims 1, 16 and 31 are the independent claims involved in the appeal. The dependent claims stand or fall with their respective independent claim.

February 25, 2005  
Case No.: 7780/18 (T00349)  
Serial No.: 10/040,288  
Filed: October 25, 2001  
Page 6 of 12

**ARGUMENT**

Section 102(e) requires that an invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent.

The present application was filed on October 25, 2001. Flick '946 was filed on March 25, 2002 and published on November 21, 2002. Flick '946 therefore does not qualify as prior art under section 102(e).

The Examiner stated that this argument was not persuasive, and referred to the filing date of a provisional application to which Flick '946 claims priority. Office Action mailed December 6, 2004 at page 5. This fact has no bearing on the operative issue. *In re Wertheim*, 646 F.2d 527, 536-537, 209 USPQ 554 (CCPA 1981).

February 25, 2005  
Case No.: 7780/18 (T00349)  
Serial No.: 10/040,288  
Filed: October 25, 2001  
Page 7 of 12

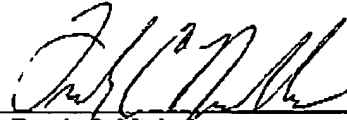
**SUMMARY**

The final rejection of claims 1-31 should be reversed.

Dated. **February 23, 2005**

Respectfully submitted,  
ROBERT J. MENENDEZ

CARDINAL LAW GROUP  
Suite 2000  
1603 Orrington Avenue  
Evanston, Illinois 60201  
Phone: (847) 905-7111  
Fax. (847) 905-7113



---

Frank C. Nicholas  
Registration No. 33,983  
Attorney for Applicant

February 25, 2005  
Case No.: 7780/18 (T00349)  
Serial No.: 10/040,288  
Filed: October 25, 2001  
Page 8 of 12

**CLAIMS APPENDIX**

- 1 A service vehicle for making service calls at a plurality of locations, the service vehicle comprising:
  - a position determination device;
  - a subsystem indicator indicating a condition of a subsystem of the service vehicle;
  - an associated mobile communication device; and
  - a hub in permanent communication with a central computer, the hub communicating with the position determination device, the subsystem indicator, and the mobile communication device.
2. The service vehicle of claim 1 wherein the position determination device comprises a global positioning system receiver.
3. The service vehicle of claim 1 wherein the subsystem indicator indicates the condition of an ignition of the service vehicle.
4. The service vehicle of claim 1 wherein the subsystem indicator indicates the condition of an odometer of the service vehicle.
5. The service vehicle of claim 1 wherein the hub is in wireless communication with a cellular telephone tower.
6. The service vehicle of claim 1 wherein the central computer communicates with an Internet site.
7. The service vehicle of claim 1 wherein the central computer comprises a private network.

February 25, 2005  
Case No.: 7780/18 (T00349)  
Serial No.: 10/040,288  
Filed: October 25, 2001  
Page 9 of 12

8. The service vehicle of claim 1 wherein the hub communicates with the central computer at least in part according to CDPD protocol.
9. The service vehicle of claim 1 wherein the hub communicates with the central computer at least in part according to GPRS protocol.
10. The service vehicle of claim 1 wherein the central computer provides directions to the service vehicle to a subsequent destination.
11. The service vehicle of claim 1 wherein the central computer provides traffic data to the service vehicle.
12. The service vehicle of claim 1 wherein the hub is in wireless communication with the mobile communication device.
13. The service vehicle of claim 1 wherein the hub is in wireless communication with the mobile communication device according to an IEEE 802.11 protocol.
14. The service vehicle of claim 1 wherein the hub is in wireless communication with the mobile communication device according to a bluetooth protocol.
15. The service vehicle of claim 1 wherein the hub is in wireless communication with the subsystem indicator.

February 25, 2005  
Case No.: 7780/18 (T00349)  
Serial No.: 10/040,288  
Filed: October 25, 2001  
Page 10 of 12

16. A system for monitoring a plurality of service vehicles, the system comprising:  
a central computer;  
a position determination device in each service vehicle;  
a subsystem indicator in each service vehicle, the subsystem indicator indicating a condition of a subsystem of the service vehicle;  
a mobile communication device associated with each service vehicle; and  
a hub in each service vehicle, the hub being in permanent communication with the central computer, the hub communicating with the position determination device, the subsystem indicator, and the mobile communication device.
17. The system of claim 16 wherein the position determination device comprises a global positioning system receiver.
18. The system of claim 16 wherein the subsystem indicator indicates the condition of an ignition of the service vehicle.
19. The system of claim 16 wherein the subsystem indicator indicates the condition of an odometer of the service vehicle.
20. The system of claim 16 wherein the hub is in wireless communication with a cellular telephone tower.
21. The system of claim 16 wherein the central computer communicates with an Internet site.
22. The system of claim 16 wherein the central computer comprises a private network.
23. The system of claim 16 wherein the hub communicates with the central computer at least in part according to CDPD protocol.

February 25, 2005  
Case No.: 7780/18 (T00349)  
Serial No.: 10/040,288  
Filed: October 25, 2001  
Page 11 of 12

24. The system of claim 16 wherein the hub communicates with the central computer at least in part according to GPRS protocol.
25. The system of claim 16 wherein the central computer provides directions to the service vehicle to a subsequent destination.
26. The system of claim 16 wherein the central computer provides traffic data to the service vehicle.
27. The system of claim 16 wherein the hub is in wireless communication with the mobile communication device.
28. The system of claim 16 wherein the hub is in wireless communication with the mobile communication device according to an IEEE 802.11 protocol.
29. The system of claim 16 wherein the hub is in wireless communication with the mobile communication device according to a bluetooth protocol
30. The system of claim 16 wherein the hub is in wireless communication with the subsystem indicator.
31. A method of coordinating a plurality of service vehicles, comprising:
  - providing a central computer;
  - providing each service vehicle with a position determination device, a subsystem indicator, a mobile communication device, and a hub in permanent communication with the central computer, the hub communicating with the position determination device, the subsystem indicator, and the mobile communication device; and
  - directing the service vehicle to a subsequent service call based on the information received by the central computer from the hub.

February 25, 2005  
Case No.: 7780/18 (T00349)  
Serial No.: 10/040,288  
Filed: October 25, 2001  
Page 12 of 12

**Evidence appendix**

None.

**Related proceedings appendix**

None.